

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No 381 of 1997

in

SPECIAL CIVIL APPLICATION No 8597 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE C.K.THAKKER and
MR.JUSTICE A.R.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? No
2. To be referred to the Reporter or not? No
3. Whether Their Lordships wish to see the fair copy of the judgement? No
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? No
5. Whether it is to be circulated to the Civil Judge?

No

STATE OF GUJARAT

Versus

NATWARLAL J VAGHELA

Appearance:

MR DA BAMBHANIA for Appelants

MR NILESH A PANDYA for Respondent No. 1, 2

CORAM : MR.JUSTICE C.K.THAKKER and

MR.JUSTICE A.R.DAVE

Date of decision: 18/11/97

ORAL JUDGEMENT (per C.K. Thakker, J.)

Admitted. Mr. N.A. Pandya, learned Counsel for the respondents, waives service of notice of admission. In the facts and circumstances of the case, the matter is taken up for final hearing today.

The appellants are original respondents. A petition being Special Civil Application No. 6589 of 1997 was filed by the respondents-petitioners for appropriate writ, direction or order quashing and setting aside an order of reversion dated 23.10.1996 passed against them. When the petition came up for admission, the learned Single Judge issued Rule on 18.2.1997 and granted interim relief. Interim relief was granted only on one ground. It was pointed out to the learned Single Judge that Special Civil Application No. 8665 of 1996 was filed in which interim relief was granted in favour of the petitioner. The attention of the court was drawn to the fact that the petitioner of that Special Civil Application was at Sl. No. 311 in the seniority list whereas petitioners of the present petition were at Sl. Nos. 309 and 308 respectively. The learned Single Judge was, therefore, of the view that, if interim relief was granted in favour of a person who was junior to the petitioners, it was not open to the authorities to revert the petitioners of the present petition who were senior to him.

It cannot be denied that the reasoning which weighed with the learned Single Judge was proper, equitable and just. Our attention, however, was invited by Mr. Bambhania, learned A.G.P., on behalf of the appellants that, against the order passed by the learned Single Judge in Special Civil Application No. 8665 of 1996, the authorities preferred appeal being Letters Patent Appeal No. 164 of 1997 which came up before a Division Bench and after hearing the parties, the Letters Patent Appeal was allowed and the order passed by the learned Single Judge was set aside. The said factual position is not disputed even by Mr. Pandya.

In these circumstances, in our opinion, the appeal deserves to be allowed and is accordingly allowed and the order passed by the learned Single Judge is hereby set aside.

Mr. Pandya, however, submitted that, over and above the ground which weighed with the learned Single Judge, there are other grounds in favour of the petitioners and that interim relief could have been granted on those grounds. We make it clear that we are not expressing any opinion on those points. Mr. Pandya

further submitted that if interim relief will be vacated forthwith, irreparable injury and loss would be caused to the respondents inasmuch as rule is issued and ad-interim relief was granted which is ordered to be vacated by our order today. In the facts and circumstances of the case, in our opinion, ad-interim relief granted by the learned Single Judge will remain in operation till December 15, 1997. By that time, it is open to the petitioners to file appropriate application to get appropriate relief from the learned Single Judge.

The appeal is accordingly allowed. No order as to costs.

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